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UNITED NATIONS STANDARDS AND NORMS IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

Report of the Secretary General

Summary

The present report provides an overview of the recent development of activities of the United Nations crime prevention and criminal justice programme in the area of the promotion of the use and application of existing United Nations standards and norms, pursuant to Economic and Social Council resolution 1994/18 of 25 July 1994. It focuses on ways and means of facilitating their use and dissemination, while improving cooperation and coordination of activities with other entities and institutions active in this area.

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INTRODUCTION

1. The General Assembly, in its resolution 46/152 of 18 December 1991 on the creation of an effective United Nations crime prevention and criminal justice programme, defined the general goals of the programme, which include: the strengthening of regional and international cooperation in crime prevention, criminal justice and the combating of transnational crime; more efficient and effective administration of justice, with due respect for human rights of all those affected by crime and all those involved in the criminal justice system; and the promotion of the highest standards of fairness, humanity, justice and professional conduct.

2. United Nations standards, norms, guidelines and model treaties in crime prevention and criminal justice represent internationally agreed-upon principles of desirable practice on the basis of which Governments could assess their own systems and contribute to the further development of the concept of international rule of law. Those principles cover such matters as the treatment of prisoners, the conduct of law enforcement officials, the use of force and firearms by the police, the rights of victims of crime, the independence of the judiciary and the administration of juvenile justice. The principles can also provide a basis for domestic legislation and for bilateral and multilateral cooperation to combat national and transnational forms of crime.

3. While international instruments such as declarations, principles, guidelines, standard rules and recommendations have no legally binding effect, they have an undeniable moral strength and can provide practical guidance. Therefore, one of the aims of the United Nations in reviewing progress in the use and application of standards and norms in the field of crime prevention and criminal justice is to assist States in overcoming obstacles that might exist in implementing some standards.

4. On the recommendation of the Commission on Crime Prevention and Criminal Justice at its third session, the Economic and Social Council adopted its resolution 1994/18 of 25 July 1994 on United Nations standards and norms in crime prevention and criminal justice. In that resolution, the Council reaffirmed the important contribution that the use and application of United Nations standards and norms in crime prevention and criminal justice make to criminal justice systems, and stressed the need for further coordination and concerted action in translating into practice United Nations standards and norms in that area. The Council also endorsed the draft questionnaires prepared by the Secretariat on the four instruments selected by the Commission at its second session. Furthermore, the Council requested the Commission on Crime Prevention and Criminal Justice to continue to give special attention to their use and application, and also to continue its consideration of the question at its fourth session by having the open-ended in-sessional working group discuss, *inter alia*, the role of the United Nations in this area.

5. The Commission may also wish to suggest appropriate follow-up action on the proposal for the development of minimum rules for the administration of criminal justice, in accordance with Council resolution 1994/17 of 25 July 1994. Comments on this issue from Governments and other institutions are contained in a report of the Secretary-General before the Commission (E/CN.15/1995/7/Add.1).

I. REGULAR REPORTING AND ESTABLISHMENT OF DATABASES

A. Selected standards

6. The Council, in its resolution 1993/34, section III, of 27 July 1993, requested the Secretary-General to commence without delay a process of information-gathering to be undertaken by means of surveys, such as reporting systems, and contributions from other sources, initially paying attention to the following United Nations standards, norms and guidelines: the Standard Minimum Rules for the

Treatment of Prisoners; the Code of Conduct for Law Enforcement Officials, together with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; and the Basic Principles on the Independence of the Judiciary.[1] The Council also requested that the surveys should be conducted over a two-year period in order to enable Member States to have sufficient time to provide replies, and that the results of the first surveys should be considered at the earliest possible session of the Commission.

7. In pursuance of the above request, the Crime Prevention and Criminal Justice Branch elaborated draft questionnaires on the use and application of the above-mentioned standards and submitted them to the Commission on Crime Prevention and Criminal Justice at its third session for consideration (E/CN.15/1994/CRP.5-8). The Commission at its third session, including in its open-ended in-sessional working group, held extensive discussions on this issue. Some speakers stated that it was a step in the right direction, and that responding to the questionnaires might involve all interested segments of society, including criminal justice professionals and non-governmental organizations. Particular attention should be paid to the utilization of the feedback that would result from the questionnaires and to the evaluation of the degree of implementation of the United Nations standards and norms. Some delegations requested the Secretariat to not only use the questionnaires but also to explore other assessment methods that might provide useful results.

8. On the recommendation of the Commission at its third session, the Council, in its resolution 1994/18, endorsed the questionnaires referred to above and invited Member States to reply to them. Member States were also invited to provide their views and comments for an evaluation of the questionnaires, so that the results could be used as a guideline for further improving the review process and that further surveys should reflect feedback received through them.

9. In accordance with this mandate, a note verbale was sent to all Member States on 24 August 1994. As of 18 April 1995, the following countries had replied to the respective questionnaires:

(a) *Standard Minimum Rules for the Treatment of Prisoners*. Replies received from the following 31 countries: Armenia, Colombia, Croatia, Czech Republic, Finland, France, Germany, Greece, Ireland, Jordan, Latvia, Lebanon, Liechtenstein, Malawi, Morocco, Mexico, Netherlands, Pakistan, Qatar, Republic of Korea, Romania, San Marino, Slovakia, Sweden, Syrian Arab Republic, Tajikistan, Thailand, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America* and Vanuatu;

(b) *Code of Conduct for Law Enforcement Officials, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*. Replies received from the following 32 countries: Australia, Austria, Belarus, Colombia, Costa Rica, Czech Republic, Finland, France, Ireland, Israel, Jordan, Lebanon, Liechtenstein, Malawi, Morocco, Mexico, Mongolia, New Zealand, Niger, Oman, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Tonga, Turkey, United Kingdom, United States and Vanuatu;

(c) *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*. Replies received from the following 17 countries: Argentina, Australia, Canada, Finland, France, Greece, Lebanon, Morocco, Mexico, Netherlands, New Zealand, Oman, Qatar, San Marino, Sweden, Tonga and Vanuatu;

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*Reply received from the State of Mississippi.

(d) *Basic Principles on the Independence of the Judiciary*. Replies received from the following 28 countries: Argentina, Australia, Belarus, Canada, Colombia, Dominican Republic, Finland, France, Germany, Greece, Guyana, Japan, Jordan, Malawi, Morocco, Mexico, Niger, Oman, Portugal, San Marino, Singapore, Spain, Sudan, Sweden, Tonga, Turkey, United States and Vanuatu.

10. So far, the replies received suggest that Member States provided comprehensive answers. In addition, a number of Member States provided supplementary information on their legislative background concerning the various topics (penitentiary, law enforcement, judiciary and victims assistance).

11. The Secretariat intends to send a further note verbale to Member States which have not yet replied. In pursuance of Council resolution 1994/18, four reports evaluating the replies received on the four questionnaires will be presented to the Commission at its fifth session.

12. The information collected through the various surveys will be used to establish databases on the respective subject-matters which will be made available to policy makers, practitioners, professional organizations, academic institutions and other interested parties.

B. Capital punishment

13. The Commission may wish to recall that at its third session it was informed by the Secretariat that in accordance with Council decision 1994/206 of 3 February 1994, a report on the question of capital punishment, including implementation of the safeguards, was to be submitted to the Council in 1995 (E/CN.15/1994/7, para. 78). It should also be recalled, in this connection, that the Council, in its resolution 1745 (LIV) of 16 May 1973, invited the Secretary-General to submit periodic and analytical reports at five-year intervals, starting from 1975. In its resolution 1989/64 of 24 May 1989, the Council invited Member States to facilitate the efforts of the Secretary-General to gather comprehensive, timely and accurate information about the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty and the death penalty in general. In the same resolution, the Council recommended that the report of the Secretary-General on the question of capital punishment, in pursuance of its resolution 1745 (LIV), should henceforth also cover the implementation of the safeguards. Further, in its resolution 1990/51 of 24 July 1990, the Council invited Member States to respond to the questionnaire to be sent by the Secretary-General requesting information for the preparation of the fifth quinquennial report on capital punishment, in 1995. Accordingly, the Secretary-General invited Member States, by note verbale of 22 November 1994, to reply to a questionnaire on the above-mentioned subjects. The report thereon, to which 53 Member States and 7 non-governmental organizations had replied as of 20 April 1995, will be submitted to the Council.

II. USE AND APPLICATION OF UNITED NATIONS STANDARDS AND NORMS

14. The Council, in its resolution 1994/18, stressed the role of the United Nations in promoting the use and application of existing standards and norms, through technical cooperation programmes and advisory services, including training programmes and fellowships. The Council also placed special emphasis on the widest possible dissemination of standards and norms through the development of manuals and other forms of guidance for law enforcement officials and criminal justice personnel. Vital importance was attached to the coordinated activities with other United Nations entities and institutes, as well as intergovernmental and non-governmental organizations.

15. The observance of human rights and the promotion of democracy can be ensured and preserved only if there is an effective and fair system of law enforcement and justice. The scope of criminality

is posing great dangers to the welfare of all States through the rising incidence of crime generally and through the many forms of criminal activity that have international dimensions. This phenomena is imposing enormous costs in both human and material terms, especially in its new and transnational forms, to States, *inter alia*, developing countries and countries in transition, as well as to individual victims. Therefore, the establishment of a fair and effective system of criminal justice is an essential element for the promotion of human rights for all and the sustainable development of the society.

A. Promotion of the use and application of standards through technical cooperation

16. United Nations standards and norms in crime prevention and criminal justice form an integral part of technical cooperation projects. At the third session of the Commission on Crime Prevention and Criminal Justice, it was pointed out that the best way to ensure lawful discretion in the use of power in the administration of justice was to provide proper training to police and other law enforcement officials, especially by organizing seminars for the training of trainers, in accordance with the principles embodied in existing United Nations standards and norms in crime prevention and criminal justice. In spite of the limitation of resources available, the Branch has been planning, preparing and delivering many technical cooperation programmes, including training courses and seminars. Further, the Branch has been providing some assistance to the United Nations peace-keeping and peace-building operations. Specific information on technical cooperation activities is available in a report of the Secretary-General before the Commission (E/CN.15/1995/6).

17. The extent to which technical cooperation projects can be implemented depends to a large extent on the resources available to the Branch. Therefore, the Council, in its resolution 1994/18, once again invited Member States to strengthen the human and financial resources available to the Branch by, for example, contributing to the United Nations Crime Prevention and Criminal Justice Fund, in order to enable the Branch to better assist States in conducting seminars, workshops, training programmes and other activities for promoting the use and application of standards and norms. In the same line, more consolidated cooperation and coordination of activities with other United Nations entities, interregional and regional institutes and advisers, potential donor countries, academic institutions and interested intergovernmental and non-governmental organizations is urgently required.

18. Among the training courses, seminars and missions which members of the Branch were involved in or have undertaken, the majority dealt with the promotion of the United Nations standards in the field of crime prevention and control.

19. Special emphasis was given to the promotion of the standards related to juvenile delinquency. An expert group meeting entitled Children and Juveniles in Detention: Application of Human Rights Standards was held at Vienna, hosted by the Government of Austria and organized by the Centre for Human Rights, the Branch and the United Nations Children's Fund (UNICEF). In this meeting, ways and means of applying United Nations instruments in the field of juvenile justice were discussed. The meeting produced a series of recommendations in the area of standard setting and implementation, coordination and technical cooperation, children and juveniles deprived of their liberty, instrumental use of children and juveniles by adults in and for criminal activities, and exploitation of children. The Commission on Human Rights, in its resolution 1995/41 on human rights in the administration of justice, in particular children and juveniles in detention, took note with appreciation of the recommendations of this meeting, set forth in document E/CN.4/1995/100, a copy of which will be made available to the Commission.

20. Conferences and seminars on juvenile justice were held in Sao Tome and Principe and at Bangkok, Bremen, Hanoi, Jerusalem and Tel Aviv. Members of the Branch delivered statements and lectures at

these events, where the promotion of the use and application of standards related to juvenile justice was a key issue.

21. A draft manual on juvenile justice standards, policy and implementation, prepared by the Branch with the support of the Arab Security Studies and Training Centre, is being finalized, in cooperation with the Centre for Human Rights and UNICEF, to be used as a guide for professionals in the field of juvenile justice. It is envisaged that the text will be published in the course of 1995.

B. Assistance to United Nations special operations

22. At the third session of the Commission on Crime Prevention and Criminal Justice, it was underlined that the United Nations crime prevention and criminal justice programme has made an important contribution to special missions of the United Nations, such as peace-keeping and peace-building operations. The need for appropriate training of the diverse elements of international peace-keeping personnel was stressed. Reference was made to the programme's involvement in Cambodia and in Somalia, as well as in the former republics of Yugoslavia. On the recommendation of the Commission, the Council, in its resolution 1994/22 of 25 July 1994, welcomed with appreciation the contribution of the United Nations crime prevention and criminal justice programme to United Nations peace-keeping and special missions, as well as its contribution to the follow-up to those missions, particularly with respect to strengthening the rule of law and institution-building.

23. United Nations standards and norms in crime prevention and criminal justice provide a useful basis for an introductory training course for peacekeepers. This kind of assistance to United Nations peace-keeping and peace-building operations has proved to have a useful effect on peacekeepers, so that they can pursue their daily tasks in conformity with the principles of United Nations standards and norms.

24. To facilitate this assistance, the Branch has developed basic courses and manuals, designed to restore and upgrade criminal justice systems. For example, a basic manual entitled: *United Nations Criminal Justice Standards for Peace-keeping Police* (Blue Book) has been prepared, with a synthesis of criminal justice, human rights and humanitarian law standards relevant to the work of United Nations peacekeepers. An introductory training curriculum prepared by the Branch on the basis of relevant United Nations crime prevention and criminal justice instruments was integrated in a broader training *Manual for United Nations Staff on Mission Service in Peace-keeping and Peace-building Operations*, prepared by the Office of Human Resources Management of the United Nations Secretariat in 1994.

25. The Branch was represented at consultations on Palestinian Police Training, held in Gaza, Palestine. The consultations were followed up by two training courses on police and criminal justice management, held in Gaza, from 27 November to 9 December 1994, which were organized by the Branch as part of the United Nations Integrated Assistance Programme for the Palestinian Civil Police. The training of Palestinian police officers is one of the most urgent tasks entrusted to the United Nations, in order to assist in peace-building in that region. The courses were organized in cooperation with the Special Coordinator in the Occupied Territories. The implementation of the training courses was made possible through the generous support of the Swedish International Development Authority. Each of the training courses comprised about 40 participants at the middle-management level, who in turn would be acting as trainers for their respective staff. Participants were briefed on United Nations standards, and all of them were provided with copies, in Arabic, of the relevant United Nations standards for their work as law enforcement officials. Representatives of the Branch held personal consultations with the Chairman of the Palestine Liberation Organization and heads of the Palestinian Police, in order to discuss follow-up activities. A representative of the Branch attended an Inter-Agency Meeting, held in Gaza from 7 to 8 December 1994, where more than 20 United Nations organizations met to discuss ways and means of achieving an integrated approach to social and economic development in the occupied territories.

C. Advisory services

26. Advisory services are an essential element of the promotion of the use and application of norms and standards by assisting, *inter alia*, in law reform, drafting of new legislation, improving the administration of criminal justice and setting up crime prevention policies for developing countries and countries that are in the process of reforming and democratizing their criminal justice systems.

27. In addition to the activities being undertaken by the Branch, the two interregional advisers for crime prevention and criminal justice and the regional adviser assigned to the Economic and Social Commission for Asia and the Pacific (ESCAP) are responsible for providing direct advisory services to Governments at their request, in close cooperation with the Branch. Their main task is to translate United Nations instruments into specific actions that take into account the economic, social, cultural and political circumstances of the country concerned.

1. Law reform assistance

28. At the request of the State Law Department of the Administration of the President of the Russian Federation, the Branch is assisting in a judicial reform project in the Russian Federation, with special emphasis on the Basic Principles on the Independence of the Judiciary, as well as the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors.

29. Assistance is also being given to the democratically elected Government of Cambodia in the implementation of suitable criminal justice and prosecutorial legislation and regulatory mechanisms. This work follows from earlier missions by the Branch to Cambodia, including the preparation of a reference and training manual for the conduct of criminal justice in Cambodia, a code of conduct for public officials and detailed commentary and training guidelines, on the basis of relevant United Nations standards and norms in crime prevention and criminal justice.

30. Another example of advisory services is the assistance to the Government of Belarus in the finalization of the draft Criminal Code and the draft Code of Criminal Procedure. In cooperation with the Centre for Human Rights, recommendations were prepared for both draft laws, which were in conformity with the principles embodied in United Nations standards and norms in crime prevention and criminal justice.

2. Interregional advisers

31. The missions undertaken by the interregional advisers were all related to the development of criminal justice systems, especially of developing countries and countries in transition. They provided specific suggestions on how United Nations instruments could be reflected in domestic legislation and put into practice in the countries concerned. In the light of the increasing demand for advisory services by the interregional advisers, in the programme of work for the biennium 1994-1995, two posts of interregional adviser were established on a regular basis. The selection and appointment of those advisers was completed in October 1994. The General Assembly, in its resolution 49/158 of 23 December 1994, welcomed the appointment of two interregional advisers in crime prevention and criminal justice. Since then, they have resumed their active services in order to facilitate the effective use and application of United Nations standards and norms in a practical context.

32. The interregional advisers undertook several technical missions for this purpose, *inter alia*, to Benin, Hong Kong, Macao, South Africa and Thailand. On the occasion of the United Nations World Ministerial Conference on Organized Transnational Crime, held at Naples, Italy, from 21 to

23 November 1994, the interregional advisers also conducted informal consultations with the representatives of interested Governments in order to identify priority actions for their services.

3. Regional adviser at the Economic and Social Commission for Asia and the Pacific

33. As a counterpart of the interregional advisers at the regional level, the regional adviser at ESCAP, whose post is funded by the Government of Japan, has undertaken advisory missions to countries in the Asia and Pacific region, in particular Cambodia, China, Nepal and Philippines. In these missions, he provided extensive information on the treatment of offenders and juvenile delinquents in the Asian context.

34. The regional adviser has also engaged in the publication of manuals. For example, *Rehabilitation of Juvenile Delinquents in the ESCAP Region* has been issued in English, in cooperation with the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders. Another publication, *Study on the Implementation of United Nations Mandates on Juvenile Justice Administration in the ESCAP Region*, was issued in English, with the financial contribution of the Asia Crime Prevention Foundation.

35. The regional adviser undertook advisory services in the Philippines, with the intention of assisting in the improvement of the treatment measures and the enhancement of the effective rehabilitation programmes for juvenile delinquents.

36. While the necessity for the appointment of additional regional advisers has frequently been emphasized, the only post that has been created so far is that of the regional adviser in the ESCAP region. More regional advisers are required in order to promote the effective use and application of United Nations standards and norms and, in particular, to ensure realistic approaches that take into consideration the social, cultural and economic conditions of the regions concerned. The regional advisers would work in close cooperation with the Crime Prevention and Criminal Justice Branch.

D. Dissemination of standards

37. The widest dissemination of United Nations standards and norms plays a vital role in the process of promoting the use and application of those instruments. The knowledge of United Nations standards and norms by policy makers and criminal justice practitioners enables them to pursue their daily tasks in the administration of justice more fairly and humanely. The promotion of such standards among interested intergovernmental and non-governmental organizations and academic institutions, as well as among the general public, requires particular attention.

1. Compendium

38. The Economic and Social Council, in its resolution 1994/18, placed special emphasis on the widest possible dissemination of the *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*. While the document was originally available in English only, the Governments of China, France, Russian Federation and Spain have generously committed themselves to the funding of its publication in their languages, and the United Kingdom had provided resources for reprinting it in English. Further , the Government of Portugal has agreed to publish the Compendium in Portugese. These texts have been widely used as an important basis for seminars and workshops for law enforcement and criminal justice practitioners.

2. Other publications

39. At the third session of the Commission on Crime Prevention and Criminal Justice, the important role of training manuals and similar publications for law enforcement officials and criminal justice personnel was reaffirmed. As a result, the Economic and Social Council requested the Secretary-General to continue the further development and distribution of such documents.

40. The *Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*[2] was prepared by the Crime Prevention and Criminal Justice Branch, in cooperation with the Minnesota Lawyers' International Human Rights Committee now known as the Minnesota Advocates for Human Rights. The Commission on Human Rights, in its resolution 1994/82, strongly condemned the large number of extrajudicial, summary executions which continue to take place throughout the world.

41. The Branch, in cooperation with the Centre for Human Rights and the Minnesota Advocates for Human Rights, has also published a *Handbook of International Standards relating to Pre-trial Detention*,[3] in English. The handbook is meant to increase awareness of the international standards which exist in the area of pre-trial detention, providing practical guidance for the use and application of the standards with advisory guidelines to criminal justice practitioners.

42. Furthermore, as a joint publication with the UNESCO Institute, Hamburg, the Branch has been engaged in the elaboration of a manual on basic education in prison, which examines ways and means of meeting the challenge posed by prison education, through a review of existing practices throughout the world. The manual will be offered to decision makers, administrators, educators and non-governmental organizations, in order to promote education in the special environment of penal establishments. It is envisaged that the manual will be issued in English in the course of 1995.

43. The Branch and Penal Reform International are planning to issue a joint publication entitled *Manual on "Making Standards Work"*. The *Manual* is designed to provide guidelines on the application of the United Nations Standard Minimum Rules for the Treatment of Prisoners, and is expected to be issued in the course of 1995. It was finalized at the International Conference on "Making Standards Work", which was organized by Penal Reform International and sponsored by the Ministry of Justice of the Netherlands, at the Hague, from 17 to 19 November 1994. The *Manual* can serve as a useful instrument for those working daily with prisoners, as well as assist prison management for its efforts to observe international standards.

E. Cooperation with United Nations activities in the field of human rights

44. The importance of effective cooperation and coordination of activities in the use and application of United Nations standards and norms with other United Nations entities, regional institutes, as well as interested intergovernmental and non-governmental organizations, has been repeatedly stressed by the policy-making bodies of the Organization. Most recently, the General Assembly, in its resolution 49/158 of 23 December 1994, requested the Secretary-General to take all necessary measures to assist the Commission on Crime Prevention and Criminal Justice, as the principal policy-making body in the field of crime prevention and criminal justice, in performing its functions and to ensure the proper coordination of all relevant activities in the field, in particular with the Commission on Human Rights.

1. Coordination of activities

45. Crime prevention, criminal justice and human rights issues are inseparably linked. The promotion and protection of human rights depends to a large extent on effective crime prevention policies and

strategies. Where society is victimized by rampant crime and violence, citizens can hardly enjoy their human rights and individual freedoms. Thus, full enjoyment of human rights can be facilitated through concerted efforts to ensure the safety of citizens in their daily life by, *inter alia*, combating national and transnational crime. Therefore, the establishment of fair and effective systems of criminal justice is a prerequisite for the promotion of human rights and the rule of law.

46. Conversely, efforts aimed at crime prevention and control should pay due regard to human rights and the rule of law, otherwise criminal policy becomes arbitrary, discriminatory and oppressive. These are the reasons why a delicate balance between crime prevention and criminal justice and the promotion and protection of human rights should exist. That is why both programmes in the framework of the United Nations are cooperating closely and their activities are being constantly coordinated, although their purpose and focus might be different.

47. In order to follow up the Vienna Declaration and Programme of Action (A/CONF.157/24 (Part I), chap. III), adopted by the World Conference on Human Rights, as well as to facilitate cooperation and coordination between the human rights programme and the crime prevention and criminal justice programme more effectively and systematically, the Council, in its resolution 1994/18, requested the Secretary-General to promote the use and application of United Nations standards and norms in crime prevention and criminal justice. This should be done, *inter alia*, by ensuring the participation of members of the Branch in the discussion of the relevant issues in the Commission on Human Rights and its Subcommission on Prevention of Discrimination and Protection of Minorities.

48. The attention of the Commission on Crime Prevention and Criminal Justice may be drawn to the establishment, on the occasion of the forty-sixth session of the Subcommission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights, of a sessional working group on the administration of justice and the question of compensation (E/CN.4/Sub.2/1994/22). On that occasion, an extensive discussion on analysis of the work of the Subcommission and of the Commission on Crime Prevention and Criminal Justice was held, with a view to improving further cooperation and coordination. In an analysis of the work of the Subcommission and of the Commission on Crime Prevention and Criminal Justice, the sessional working group pointed out that the coordination of activities between the two programmes had moved from an empirical case-by-case principle to close cooperation, in particular in working out the implementation of some joint projects. In the view of the members of the working group, the Subcommission should continue to coordinate its work with the activities of the Commission on Crime Prevention and Criminal Justice and with the United Nations Congresses on the Prevention of Crime and the Treatment of Offenders. The working group is envisaged to continue its discussion at the forty-seventh session of the Subcommission in 1995.

49. Reference has been made to Commission on Human Rights resolution 1994/45 and the adoption by the Commission on Crime Prevention and Criminal Justice, at its third session in 1994, of its resolution 3/1 on violence against women and children. Both resolutions called for intensified effort at the international level to integrate the equal status of women and the human rights of women into the mainstream of United Nations system-wide activity and to address those issues regularly and systematically in relevant United Nations bodies and mechanisms.

50. Coordination of activities was also considered in the Working Group on Arbitrary Detention of the Commission on Human Rights. It is noteworthy that the Crime Prevention and Criminal Justice Branch was requested by the Chairman of the Working Group on Arbitrary Detention to raise, at the fourth session of the Commission on Crime Prevention and Criminal Justice, the question whether detention prior to extradition should not be regarded as arbitrary if it is taken into account in the sentence finally pronounced in the requesting country. At its last session, held from 16 to 20 May 1994, the Working Group considered this question and finally agreed that it was a problem of sound administration of

justice, rather than arbitrary detention. In this context, on the occasion of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, a one-day workshop on extradition and international cooperation has been included in the agenda of the Congress. Therefore, the Commission on Crime Prevention and Criminal Justice may wish to refer to the discussion and conclusions of that workshop.

2. 1995 Commission on Human Rights

51. As in the past, matters of common concern with the human rights programme were emphasized by the Commission on Human Rights at its fifty-first session in 1995. The Commission adopted resolution 1995/41, on human rights in the administration of justice, in particular children and juveniles in detention, in which it welcomed the work of the Commission on Crime Prevention and Criminal Justice, and emphasized the importance of coordinating the activities of both Commissions in this field. The importance of the full implementation of all relevant United Nations standards on human rights in the administration of justice is reaffirmed. The Commission took note with appreciation of the recommendations of the Expert Group Meeting on Children and Juveniles in Detention: Application of Human Rights Standards, held at Vienna from 30 October to 4 November 1994 (see E/CN.4/1995/100, para. 16).

52. In resolution 1995/37, on torture and other cruel, inhuman or degrading treatment or punishment, the Commission on Human Rights underlined the relevance of, *inter alia*, the Standard Minimum Rules for the Treatment of Prisoners and the Code of Conduct for Law Enforcement Officials, for the eradication of torture. In the same resolution, it extended the mandate of the Special Rapporteur on torture for another three years. The Special Rapporteur should continue to have a further exchange of views with the relevant human rights mechanisms and bodies entrusted with the task of combating torture, and should pursue cooperation with relevant United Nations programmes, notably that on crime prevention and criminal justice.

53. In its resolution 1995/36, on independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, the Commission on Human Rights welcomed the first report submitted by the Special Rapporteur on the independence of judges and lawyers (E/CN.4/1995/39), and noted with appreciation his determination to achieve as wide a dissemination as possible of information about existing standards relating to the independence and impartiality of the judiciary.

54. In its resolution 1995/59, on arbitrary detention, the Commission encouraged States to endeavour to take appropriate measures to ensure that their legislation in this field is in conformity with the relevant international instruments.

55. The Commission on Human Rights called upon the international community to give increased attention to the right to restitution, compensation and rehabilitation of victims of grave violations of human rights and fundamental freedoms, in its resolution 1995/34. This should be done under the guidance of the relevant instruments in that field.

56. In its resolution 1995/25 of 3 March 1995, on traffic in women and girls, the Commission on Human Rights, aware of resolution 3/2 on international traffic in minors of the Commission on Crime Prevention and Criminal Justice, expressed its grave concern at the worsening problem of trafficking, particularly the increasing syndication of the sex trade and the internationalization of the traffic in women and girl children. The Commission invited the Ninth Congress to consider the subject of the traffic in women and girl children.

3. Subcommission on Prevention of Discrimination and Protection of Minorities

57. On the occasion of the forty-sixth session of the Subcommission on Prevention of Discrimination and Protection of Minorities, held at Geneva, from 1 to 26 August 1994, the issues of mutual interest between the crime prevention and criminal justice programme and the human rights programme were extensively discussed. Primary attention was given to such issues as: the question of human rights of persons subject to any form of detention or imprisonment; the question of human rights and states of emergency; individualization of prosecution and penalties, and repercussions of violations of human rights on families; the right to a fair trial; and independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers. Particularly, the Subcommission, in its resolution 1994/35, endorsed the summary of norms and interpretations embodied in the draft body of principles on the right to a fair trial and a remedy (E/CN.4/Sub.2/1994/24, annex II). This would be an area where expertise and experience of both programmes may be further used.

F. Cooperation with the International Year of the Family

58. The International Year of the Family, which was observed in the course of 1994, offered an opportunity to highlight the important role of the family in crime prevention and criminal justice and to promote action on the various related aspects. This role was specified in the three standards on juvenile justice: the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines); and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

59. Families have a pivotal role to play also in the treatment and rehabilitation of members who have been convicted of crimes. The United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) place special emphasis on the role of the family in this area, because non-custodial measures are most effective where there are coordinated efforts, with adequate support, by the family of the offender, the correctional system and social welfare agencies (see *Commentary on the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules)* (ST/CSDHA/22).

60. In the course of the International Year of the Family, the role of the family in crime prevention and criminal justice was emphasized, through seminars and workshops organized by the coordinator of this event. The study entitled *Family and Crime* (Occasional Paper Series, number 3, 1992), which was prepared by the Crime Prevention and Criminal Justice Branch and published by the secretariat of the International Year of the Family, made invaluable contribution to that connection. The Branch was also actively involved in the fourth (March 1994) and fifth (May 1995) Inter-Agency Meeting on the International Year of the Family.

61. On the occasion of these five regional preparatory meetings for the Ninth Congress, which were held in the course of the International Year of the Family, many participants referred to the important role which the Year could make in the promotion of the use and application of United Nations standards and norms in crime prevention and criminal justice. Therefore, the Council, in its resolution 1994/18, invited the Coordinator of the International Year of the Family to report to the Ninth Congress on activities related to crime prevention and criminal justice undertaken in observance of the Year.

G. Advancement of women

62. In accordance with the increasing concern of the world community with the issue of violence against women, further cooperation and coordination of activities between the crime prevention and

criminal justice programme and the programme of advancement of women has been attached particular importance.

63. The Commission on Crime Prevention and Criminal Justice, in its resolution 3/1 of 6 May 1994 on violence against women and children, called for the elimination of violence against women and children in the family, in the general community and where perpetrated or condoned by the State, and emphasized the duty of Governments to refrain from engaging in violence against women and children and to exercise due diligence to prevent, investigate and, in accordance with national legislation, to punish acts of violence against women and children, and to provide access to just and effective remedies and specialized assistance to victims. In the same resolution, the Commission also encouraged the strengthening of cooperation and coordination with the Commission on the Status of Women, the Committee on the Elimination of Discrimination against Women, the United Nations Development Fund for Women etc.

64. The Commission on Crime Prevention and Criminal Justice, in the same resolution, requested the Ninth Congress to consider violence against women and violence against children as separate questions under topic 4 and in the context of the workshop on the prevention of violent crime and to propose recommendations to the Commission in respect of legislation, procedures, policies, practices, and technical cooperation and assistance, as well as of social services, education and the dissemination of information. The Commission also decided to continue its consideration of the issue at its fourth session by having its in-sessional working group examine, as separate questions, violence against women and violence against children in their crime prevention and criminal justice aspects and, more particularly, specific measures which can be taken in that respect, in the light of the international instruments and recommendations of the Ninth Congress.

65. These recommendations of the Congress, as well as those of the Commission, should be elaborated in the context of the preparations for the Fourth World Conference on Women: Action for Equality, Development and Peace, to be held at Beijing from 4 to 15 September 1995. It may be recalled that the General Assembly, in its resolution 49/166 of 23 December 1994, invited, *inter alia*, the Ninth Congress and the Fourth World Conference on Women to consider including in their respective programmes of action the subject of the traffic in women and girl children.

66. Since violence against women, especially domestic violence, is frequently a recurring phenomenon, victims are often reluctant to report it and uncooperative to criminal justice authorities. Therefore, unless there is due attention to the treatment of victims and their safety, criminal proceedings may eventually result in their revictimization. This highlights the necessary application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power in dealing with the issue. The Declaration includes recommendations on measures to be taken to improve access to justice and fair treatment, restitution, compensation and social assistance for victims of crime. Such measures are of special importance to the protection of women.

H. World Summit for Social Development

67. The World Summit for Social Development, held at Copenhagen from 6 to 12 March 1995, focused its attention on enhancing social integration, an issue of great relevance to the use and application of standards and norms in crime prevention and criminal justice.

68. It is broadly understood that crime should not be interpreted merely as a problem of illegal behaviour and law enforcement, but also as a phenomenon closely linked with economic and social development. According to article 11 of the Declaration on Social Progress and Development, proclaimed by the General Assembly by its resolution 2542 (XXIV) of 11 December 1969, social

progress and development should aim equally at the attainment of certain main goals, including the provision of social defence measures and the elimination of conditions leading to crime and delinquency, especially juvenile delinquency.

69. In the Declaration of the World Summit for Social Development, it is stated that social development and social justice are indispensable for the achievement and maintenance of peace and security within and among nations. Social development and social justice cannot be attained in the absence of peace and security or in the absence of respect for all human rights and fundamental freedoms. In the Declaration the importance of the fight against worldwide conditions which pose severe threats to the health, safety, peace, security, and the well-being of the people, including, *inter alia*, illicit drug problems, organized crime, corruption, illicit arms trafficking and terrorism, is also stressed.

70. In addition, the Declaration sets out the principles and goals of the international community, which include, *inter alia*: promotion of democracy, human dignity, social justice and solidarity at the national, regional and international levels; promotion of universal respect for, and observance and protection of, human rights and fundamental freedoms for all; promotion of the effective exercise of rights and the discharge of responsibilities at all levels of society; promotion of the strengthening of social integration and civil society; and support of progress and security for people and communities, whereby every member of society is enabled to satisfy basic human needs and to realize their personal dignity, safety and creativity.

71. The Programme of Action of the World Summit for Social Development therefore includes, in its chapter on social integration, a special section, entitled "Violence, crime, the problem of illicit drugs and substance abuse" (chap. IV, sect. F).

72. The Summit pronounced that social integration requires the introduction of specific policies to prevent and eliminate violence in society, with particular attention to violence against women, children, persons with disabilities and the elderly, and the full respect of the Declaration on the Elimination of Violence against Women, and the Convention on the Rights of the Child.

I. Cooperation with non-governmental organizations

73. Non-governmental organizations have contributed significantly to the promotion of the use and application of United Nations standards and norms in crime prevention and criminal justice by holding seminars and meetings, conducting individual research and studies and publishing reports and manuals on the subject. Their contributions to seminars and workshops, as well as through the publication of manuals and handbooks, are essential to the activities of the Branch in this area.

74. United Nations activities aimed at promoting the use and application of standards and norms benefit greatly from cooperation and contributions from interested non-governmental organizations. The Raoul Wallenberg Institute of Human Rights and Humanitarian Law, Penal Reform International, the International Association of Penal Law, the International Society for Criminology, Defense for Children International, the Minnesota Advocates for Human Rights, the International Society of Social Defence and many others give considerable support to the United Nations crime prevention and criminal justice programme. The International League for Human Rights, Amnesty International and the World Organization against Torture (SOS-Torture), like many others, continue to draw attention to torture and other forms of mistreatment of prisoners which violate the principles contained in the Standard Minimum Rules for the Treatment of Prisoners. The International Commission of Jurists, the International Association of Judges and the International Bar Association are seeking to promote the Basic Principles on the Independence of the Judiciary and the Basic Principles on the Role of Lawyers.

The International Penal and Penitentiary Foundation, the Howard League for Penal Reform, the Friends World Committee for Consultations and the International Prisoners' Aid Association are committed, among others, to reform the penal system, in accordance with United Nations standards.

75. The International Scientific and Professional Advisory Council (ISPAC), in cooperation with the Government of Italy, and under the auspices of the Crime Prevention and Criminal Justice Branch, organized the International Conference on Preventing and Controlling Money-Laundering and the Use of the Proceeds of Crime: A Global Approach, from 18 to 20 June 1994, at Courmayeur, Italy. ISPAC, which has been established to coordinate and strengthen the work of non-governmental organizations, academic institutions and other entities within the framework of the United Nations crime prevention and criminal justice programme, gives continuous support to the work of the Branch, especially in the area of technical cooperation activities.

76. The Alliance of Non-governmental Organizations in Crime Prevention and Criminal Justice (New York) has conducted surveys on health care in prisons, in consultation with the Crime Prevention and Criminal Justice Branch. The Alliance of Non-governmental Organizations in Crime Prevention and Criminal Justice (Vienna) played a significant role in the exploration of innovative ways and means for the more effective use and application of United Nations standards and norms in crime prevention and criminal justice. Both alliances also had a significant part in the preparations for and conduct of the Ninth Congress.

77. During the Ninth Congress, non-governmental organizations organized ancillary meetings on many issues related to its priority, such as care for victims of crime; juvenile crime in urban areas; community participation in corrections and alternatives to incarceration; an international handbook on good prison practice; migration and crime; reintegration of children following wars and other situations of community violence; drug legislation; transfer of criminal sanctions; restorative justice; life imprisonment; and the role of the public prosecutor in criminal justice under different constitutional systems.

78. On the occasion of the third session of the Commission on Crime Prevention and Criminal Justice, informal consultations on the establishment of an international association of prosecutors were held, on the initiative of the Hungarian National Association of Prosecutors and the Government of Hungary, with a view to promoting international cooperation among prosecutors and the application of the Guidelines on the Role of Prosecutors. On that occasion, an international committee composed of participants from Germany, Hungary, Ireland, Netherlands and United Kingdom examined the draft statute of the association, and discussed practical steps towards its establishment.

III. CONCLUDING REMARKS

79. As repeatedly reaffirmed by United Nations policy-making bodies, United Nations norms, standards, guidelines and model treaties are a distillation of government recommendations and expert advice and can serve as a point of departure for developing national policies.

80. While the use and application of United Nations standards and guidelines is a responsibility of Governments, there is a collective responsibility of the international community to facilitate the process. The purpose of the activities undertaken by the international community in this area should not be to criticize Governments. Therefore, Member States should take these initiatives as advisory guidance for their own benefit.

81. The Council, in its resolution 1994/18, requested the Commission to continue to give special attention to the use and application of United Nations standards and norms in crime prevention and criminal justice. The Council also requested the Commission to continue its consideration of the question at its fourth session by asking an open-ended in-sessional working group to discuss, *inter alia*, the role of the United Nations in promoting the use and application of standards and norms in crime prevention and criminal justice.

82. Accordingly, the Commission may wish to discuss, *inter alia*, the following issues:

(a) The role of the United Nations in promoting the use and application of standards and norms in crime prevention and criminal justice, including coordination and cooperation in this field;

(b) Measures to improve the dissemination of information, education and technical assistance to enhance their use and application.

83. The Commission may also wish to pay special attention and propose appropriate follow-up to the pertinent conclusions and recommendations of the Ninth Congress, including the discussions at the relevant workshops.

84. As the Council, on the recommendation of the Commission at its third session, has selected four sets of standards for immediate action, the Commission may wish to suggest the format of presentation of the results as well as to identify other instruments for subsequent action in order to enable the Secretariat to start preparing draft questionnaires for submission to the fifth session of the Commission for its consideration.

85. The Commission may further wish to explore ways and means of institutionalizing cooperation with the human rights programme, as suggested in a note prepared by the Secretariat for the meeting of the Subcommission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights (E/CN.4/Sub.2/1994/WG.1/CRP.1).

86. As has been pointed out, the coordination of activities between the two programmes has moved from an empirical case-by-case basis to close cooperation, in particular to working out and implementing joint projects. The institutionalization of system-wide cooperation and coordination of activities is an enormous task, due to the wide differences between terms of reference of relevant organs and bodies and the number of activities involved. It should also be remembered that each organ and body has its own identity, and it is important that this identity be retained within the operation of the system of cooperation and coordination.

87. In the view of the secretariat, the Commission on Crime Prevention and Criminal Justice and the periodic United Nations congresses on the prevention of crime and the treatment of offenders should continue to coordinate their work with the Commission on Human Rights and its Subcommission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights as well as their special rapporteurs. At the same time, the special rapporteurs on torture, arbitrary executions, the right to a fair trial, violence against women and children and impunity, as well as the respective officers of the Centre for Human Rights, should also work closely with the relevant mechanisms and institutes of the United Nations crime prevention and criminal justice programme.

88. Coordination is frustrated by the lack of resources, both monetary and human. In particular, the lack of funds has prevented the participation of the representatives of the Branch in the elaboration of new instruments in the field of human rights, in the administration of justice as well as in monitoring and implementing existing instruments.

89. The programmes and budgets of the pertinent United Nations organs very seldom provide for concrete concerted action in this field. Given that fact, it seems very desirable, as a matter of principle, that the Commission on Crime Prevention and Criminal Justice and the United Nations human rights organs, including the Commission on Human Rights, which oversees the advisory services programme of the Centre for Human Rights, should coordinate their activities in the above-mentioned matters.

90. In sum, there seems to be a need for further coordination in this field, with a view to elaborating and developing concepts and policies, undertaking joint programmes and developing collaborative mechanisms. There is also a need, while focusing on crime prevention and criminal justice issues, to remain cognizant of, and to incorporate, where possible, meaningful human rights concerns, and thus to contribute to the achievement of the goal whereby the promotion and protection of human rights should permeate the activities of the United Nations, on the basis of the Vienna Declaration and Programme of Action of the World Conference on Human Rights.

Notes

[1]See *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice* (United Nations publication, Sales No. E.92.IV.1).

[2]United Nations publication, Sales No. E.91.IV.1.

[3]United Nations publication, Sales No. E.94.XIV.6.